



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB888]

Endangered and Threatened Species; Notice of Availability of an Interim Report on Post-Delisting Monitoring of Nine Distinct Population Segments of Humpback Whales and Notice of Intent to Prepare a Recovery Plan for the Central America, Mexico, and Western North Pacific Distinct Population Segments of Humpback Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for information.

SUMMARY: NMFS is announcing the availability of an interim report for the post-delisting monitoring of nine distinct population segments (DPSs) of humpback whales (*Megaptera novaeangliae*). NMFS is also announcing its intent to prepare a recovery plan for three DPSs of humpback whales and requests information from the public. The Endangered Species Act (ESA) requires NMFS to develop a system to monitor the status of all species that have been recovered and removed from the lists of threatened and endangered species. The available interim report references the post-delisting monitoring plan that was developed for the nine humpback whale DPSs that are not listed as threatened or endangered. This interim report consolidates and evaluates available monitoring data from several-year intervals to summarize the best available information regarding the status of the nine non-listed humpback whale DPSs. The ESA also generally requires NMFS to develop plans for the conservation and survival of federally listed species, *i.e.*, recovery plans. The current species-wide recovery plan originally prepared in 1991 will be replaced by a new recovery plan specific to the endangered

Western North Pacific DPS, the endangered Central America DPS, and the threatened Mexico DPS of humpback whales. We request submission of any information on these DPSs of humpback whales, particularly information on the status, threats, and recovery of the DPSs that has become available since the listing status was revised in 2016 and was not considered as part of the critical habitat designation in 2021.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit information on this document, identified by NOAA-NMFS-2022-0039, by the following method:

- *Electronic Submission:* Submit electronic information via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA-NMFS-2022-0039 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the specified period, might not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Caroline Good by phone at (301) 427-8445 or *Caroline.Good@noaa.gov*.

SUPPLEMENTARY INFORMATION: In 2016, NMFS revised the listing status of the humpback whale under the ESA. The globally listed endangered species was divided

into 14 DPSs, the species-level listing was removed, and NMFS listed four DPSs as endangered and one DPS as threatened (81 FR 62260, September 8, 2016). Under section 4(g) of the ESA, and joint guidance from NMFS and U.S. Fish and Wildlife Service, NMFS is to monitor, for a minimum of five years, any species delisted due to its recovery (guidance is available at: https://media.fisheries.noaa.gov/dam-migration/final_pdm_guidance-fws_and_nmfs-updated_7-2-18_508_compliant.pdf). Although nine DPSs of humpback whales no longer qualified for listing and thus were technically not “delisted”, for the reasons explained in the ESA listing final rule, NMFS considered it appropriate to monitor the status of the populations that were no longer listed.

As a result, in 2016, NMFS implemented a 10-year plan to carry out the required monitoring for nine DPSs of humpback whales: the Hawai’i, West Indies, Brazil, West Australia, East Australia, Southeastern Pacific, Oceania, Southeast Africa/Madagascar, and Gabon/Southwest Africa DPSs (available at <https://www.fisheries.noaa.gov/resource/document/monitoring-plan-nine-distinct-population-segments-humpback-whale-megaptera>). This notice announces the availability of an interim report, which provides an evaluation of available monitoring data from 2017 to 2021 and summarizes the best available information regarding the status of the nine non-listed humpback whale DPSs. The interim report is available online at <https://www.fisheries.noaa.gov/species/humpback-whale#conservation-management> or upon request from the NMFS Office of Science and Technology.

NMFS is required by section 4(f) of the ESA to develop and implement recovery plans for the conservation and survival of federally listed species unless the Secretary finds that such a plan will not promote the conservation of the species. Recovery means improvement in the status of listed species to the point at which the protections of the ESA are no longer necessary. Section 4(f)(1)(B) of the ESA specifies that recovery plans

must include, to the maximum extent practicable: (i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species; (ii) objective, measurable criteria which when met, would result in a determination that the species be removed from the list; and (iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

NMFS previously determined that a recovery plan would not promote the conservation of the Arabian Sea and Cape Verde Islands/Northwest Africa DPSs (Memorandum for Chris Oliver, Assistant Administrator for Fisheries, from Donna Wieting, Director, Office of Protected Resources (Sep. 12, 2019) (regarding Cape Verde/Northwest Africa DPS); Memorandum for Chris Oliver, Assistant Administrator for Fisheries, from Donna Wieting, Director, Office of Protected Resources (Dec. 11, 2019) (regarding Arabian Sea DPS)). This notice announces our intent to replace the species-wide humpback whale recovery plan with a new plan specific to the endangered Western North Pacific DPS, the endangered Central America DPS, and the threatened Mexico DPS. In the interim, the recovery strategy for these DPSs will be guided by the existing species-wide plan and a new DPS-specific recovery outline under development. Critical habitat was designated for these DPSs in 2021 (86 FR 21082, April 21, 2021).

Background information on the species is available on the NMFS website at: <https://www.fisheries.noaa.gov/species/humpback-whale>.

Public Solicitation of New Information

Section 4(f)(4) of the ESA requires that public notice and an opportunity for public review and comment be provided prior to final approval of a new or revised recovery plan. Further, section 4(f)(5) mandates that all information presented during the public comment period is considered prior to implementing a new or revised recovery plan. To ensure that recovery plan development is complete and based on the best

available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of the Western North Pacific, Mexico, and Central America DPSs of humpback whale. Such information should address: (a) criteria for removing these whales from the lists of threatened and endangered species; (b) factors that are presently limiting, or threaten to limit, the survival of these humpback whales distinct population segments; (c) actions to address limiting factors and threats; (d) estimates of time and cost to implement recovery actions; and (e) research, monitoring, and evaluation needs. Upon completion, the draft recovery plan will be available for public review and comment through the publication of a **Federal Register** Notice.

If you wish to provide information for review, you may submit your information and materials electronically (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: June 3, 2022.

Angela Somma,

Division Chief, Endangered Species Conservation Division,

Office of Protected Resources,

National Marine Fisheries Service.